

UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

IN RE APPLICATION OF : **1:22-mc-00756**
PENN LIVE, YORK DAILY :
RECORD, AND YORK DISPATCH :
TO UNSEAL COURT RECORDS :
:
:

ORDER
May 9, 2023

This case concerns whether a search warrant (and related documents) involving United States Representative Scott Perry should remain sealed. Several newspapers filed an application to unseal those court records. *Doc. 1*. The United States then filed two motions to seal, seeking to seal two briefs that it filed in opposition to the newspapers' motion to unseal. *Docs. 8, 6*. We refer to those briefs as the United States' opposition and its reply.

On February 7, 2023, we issued an order ("Feb. 7 Order") granting in part and denying in part the United States' motions to seal its opposition and its reply. *Doc. 25*. Concluding that much, but not all, of the United States' briefs should not be sealed, we redacted those parts of the briefs that should be sealed. *Id.* at 13–21. And we attached those redactions to the Feb. 7 Order. *Docs. 25-1, 25-2*. Although we initially entered the Feb. 7 Order under seal and ex parte, we later unsealed that order, and we made public the United States' opposition and its reply with

redactions. *Doc. 29*. After further proceedings, we made some additional unredactions. *Doc. 34*.

After still further proceedings, we issued an order on April 17, 2023 (“April 17 Order”) ordering yet more of the United States’ opposition and its reply to be unredacted. *Doc. 37*. In order to give the United States the opportunity to appeal the April 17 Order to the district court under M.D. Pa. L. R. 72.2, we stayed that order and issued it under seal. *Id.* at 7. Although we anticipated that the April 17 Order would eventually be unsealed, we ordered that it should not be available to the public or to the newspapers until further order of the court. *Id.* The Clerk of Court was directed to serve a copy of the April 17 Order on the United States only, *id.* and it did so. We issued a Notice on the docket explaining this. *Doc. 38*.

On May 1, 2023, the United States filed another motion to seal seeking to seal a motion for partial reconsideration of the April 17 Order. *Docs. 39, 40*. The United States filed this motion to seal as well as its motion for partial reconsideration under seal and ex parte. *Id.* Although filed ex parte, it appeared that the United States served at least a redacted version of its motion for partial reconsideration on the newspapers because the newspapers filed a brief in opposition to that motion. *See doc. 41*. So, in order to clarify the docket, by an Order dated May 5, 2023, we ordered the United States to file on the docket the version of its motion for partial reconsideration that it served on the newspapers.

Doc. 42. Due to a miscommunication with the Clerk's Office, that order was filed under seal. We will now order that our May 5, 2023 Order be unsealed. The United States has filed on the docket the redacted version of its motion for partial reconsideration that it had served on the newspapers. *Doc. 43.*

In its motion for partial reconsideration, the United States requests that the court make three additional minor redactions to its opposition. Other than that, the United States asserts that it does not object to the April 17 Order or to the release of the April 17 Order. Thus, we will unseal the April 17 Order and make it available on the docket. We will also unseal and make available on the docket Attachment 2 to the April 17 Order, which is a redacted version of the United States' reply. But we conclude that the United States has shown a compelling reason for the three additional redactions that it proposes to its opposition brief, i.e., that the information at issue would reveal the strategy and direction of the grand jury's investigation. Thus, we will not unseal and make available on the docket Attachment 1 to the April 17 Order, which is a redacted version of the United States opposition. Instead, we will grant the United States' motion to seal its motion for partial reconsideration to the extent that we accept the redacted version of the United States' motion for partial reconsideration that it filed on the docket. And we will grant the United States' motion for partial reconsideration,

we will make the three additional minor redactions proposed by the United States, and we will attach to this order a redacted version of the United States' opposition.

Based on the foregoing, **IT IS ORDERED** that the Clerk of Court shall unseal the Order of May 5, 2023 (*doc. 42*). **IT IS ALSO ORDERED** that the United States' motion to seal (*doc. 39*) its motion for partial reconsideration is **GRANTED** to the extent that we accept the redacted version of the United States' motion for partial reconsideration that it filed on the docket. **IT IS FURTHER ORDERED** that we will grant the United States' motion for partial reconsideration (*doc. 43*), we will make the three additional minor redactions proposed by the United States, and we will attach to this order a redacted version of the United States' opposition brief. **IT IS ALSO ORDERED** that the Clerk of Court shall unseal and make available on the docket the April 17 Order (*doc. 37*) and Attachment 2 (*doc. 37-2*) to the April 17 Order. The Clerk of Court shall **not** unseal or make available on the docket Attachment 1 (*doc. 37-1*) to the April 17 Order. That Attachment shall remain under seal and unavailable on the docket. A redacted version of the United States' opposition is attached to this Order. As these are the final redactions, **IT IS ALSO ORDERED** that the newspapers may

file, on or before **May 23, 2023**, a reply brief in support of their motion to unseal the search warrant and related documents.

S/Susan E. Schwab

Susan E. Schwab

United States Magistrate Judge